

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

The claims have been amended to place them in better form for prosecution in the United States.

It is submitted that one of ordinary skill would not combine Zeeland and McGill and arrive at the present invention.

The container disclosed in ZEELAND '381 comprises:

- . a tapered body 11,
- . a lower wall 12 extending across the bottom end of the tapered body 11,
- . a lip 13, the function of which is to "space(s) the wall 12 from a surface upon which the container may be placed".

It is thus clear from ZEELAND '381, at least, that:

- . there is no cylindrical body (body 11 is tapered)
- . the lower wall 12 is not in the form of a truncated cone,
- . the lower wall 12 does not serve as a support base for the container

In fact, the whole container disclosed in ZEELAND '381 is supported by the lip 13. If it is considered that this lip 13 constitutes the bottom edge of the tapered body 11, it is clear that the lower wall 12 is not directly attached to that bottom edge.

It is presented that ZEELAND '381 is actually an illustration of the prior art as disclosed on page 4 lines 3 to 10 wherein the extrusion nozzle (14 in ZEELAND '381), is recessed with respect to the bottom edge of the body (lip 13 in ZEELAND '381).

An ice-cream container pack according to the present invention comprises a cylindrical body sealed at one end by means of a wall, of a truncated cone shape, a smaller base of which houses a nozzle. The Office points to no teaching of this combination of features in ZEELAND '381. In fact ZEELAND '381 teaches away from this solution since in ZEELAND '381 the whole structure is supported by the lip 13, which spaces the wall 12 from the surface upon which the container may be placed.

Having established key differences between ZEELAND '381 and the present invention, it will be shown that the problem addressed in ZEELAND '381 has nothing to do with the problem addressed by the present invention.

The container in ZEELAND '381 is not for a single, individualized serving of confection but is for a multiplicity of servings. This is clearly illustrated in Figures 3 to 5 which indicate the relative scale of the container to the dispensing machine. Consequently, ZEELAND '381 is directed to overcoming the difficulties of extruding a frozen confection using pressure over a period of time. In particular, the problems which ZEELAND '381 seeks to solve are those associated with the effects of long term and incremental pressure application on an aerated, semi-viscous material.

The container of ZEELAND '381 is positioned in an apparatus such that the container as a whole can be kept refrigerated using both refrigerants and circulating air. When a small portion of the contents of the container is to be dispensed, the base of the container only is subjected to localized heating. This will facilitate dispensing of that portion only. The bulk of the confection must ideally remain frozen, so as not to be "mobilized." The preferred embodiment of the container comprises a spigot in effect to thermally isolate that portion of the confection to be dispensed.

This differs from the container of the present application. The end wall of the container is in contact with the support base of the associated dispensing machine. The thermal effects of that contact, whether achieved using heating apparatus or otherwise, serve to raise the temperature of a thin film of product which initiates the mobilization of the either the whole or a substantial portion of the contents of the container.

The large container of ZEELAND '381, as illustrated in figure 1, comprises a lip (13) which serves to separate the end wall (12) from the surface on which the container is placed. When force is applied by the ram (plunger), the contact of the lip (13) with the surface provides the "equal and opposite reaction" to this force, thereby enabling the pressure of the ram to dispense the frozen confection. The Office points to no indication that either the end wall (12) or the tapered body (11) has any support effect for the container in the dispensing apparatus.

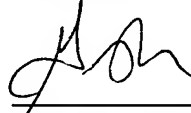
By contrast, the end wall of the container in the present invention constitutes the support base for the pack on the support of the associated dispensing machine. The structural characteristics of the end wall are therefore important for pressure transfer from the plunger to the confection in the container. The form of the end wall must be chosen such that its deformation is minimized when pressure is applied.

Therefore ZEELAND '381 does not address at all the problem addressed by the present invention, it relates to a completely different concept wherein the container contains liters of ice cream, it requires the presence of a lip (13) serving as an isolating support for the whole container, it actually requires an embodiment which is excluded from the present invention (the lip 13) and it actually constitutes an illustration of the prior art already disclosed and discussed in the present application.

McGill does relate to the dispensing of individualized portions of material. However, the container it describes is deformable. Moreover, the Office points to no pack including a cylindrical body. A deforming means causes the upper portion of the container to "collapse" upon itself to expel the contents of the container through apertures that are themselves necessarily deformable. The packs are provided with zones of weakness at their centers to enable this collapse to occur. Such is the difference mechanistically between the dispensing of material in McGill compared with ZEELAND '381, so it is contended that the skilled person would have no motivation to combine their teachings. Even if he did feel so motivated to combine the container support structure of McGill with the container of ZEELAND '381, the results would not fall within the scope of the present claims.

In view of the foregoing, it is respectfully requested that the rejection be withdrawn.

Respectfully submitted,



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